

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1765

**Introduced by Committee on Revenue and Taxation (Klehs
(Chair), Canciamilla, DeVore, Jones, and Lieber)**

March 17, 2005

An act to amend Section 16302.1 of the Government Code, and to amend Sections 6479.3, 7659.9, 8760, 9405, 9407, 9411, 9420, 9432, 30180, 30190, 30283, 32260, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, 60043, 60250, and 60603 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1765, as amended, Committee on Revenue and Taxation. State Board of Equalization: tax administration.

(1) Existing law authorizes a state agency, in accordance with rules and regulations adopted by the State Board of Control, to dispose of overpayments of taxes, fees, penalties, or interest in an amount of \$10 or less by, either applying the overpayment to other accounts of the payee that are administered by that agency or, upon approval of the Controller, depositing the overpayment into the appropriate revenue fund for which the overpayment was made.

This bill would apply these provisions to overpayments in an amount of \$20, or less.

(2) Existing law requires the State Board of Equalization to administer various tax and fee programs, including taxes and fees imposed upon the sale of fuel, including diesel fuel. Existing law authorizes the board, as a party to the International Fuel Tax Agreement (IFTA), to enter into reciprocal agreements with other

states for the administration, collection, and enforcement of taxes imposed upon motor fuels that are due and payable to this state.

This bill would make technical changes to some of the IFTA-related provisions, including clarifying the documents that constitute the International Fuel Tax Agreement.

(3) Existing law requires the board to administer taxes and fees imposed upon cigarettes and tobacco products. Existing law generally requires licensed cigarette distributors to purchase and affix an appropriate stamp to, or make an appropriate meter impression upon, each package of cigarettes prior to distribution, and provides specified penalties for failure to comply with these requirements. Existing law provides that these penalties do not apply if the failure to comply is part of the taxpayer's overall failure to pay and report taxes that is subject to a separate, but related collection action by the board.

This bill would amend these provisions by making technical changes to delete obsolete references and to conform to provisions of existing law.

(4) The Diesel Fuel Tax Law requires all government entities that operate diesel-powered highway vehicles in this state to obtain a diesel fuel tax license and to file monthly diesel fuel tax returns for purchases of diesel fuel for which the diesel tax was not paid or collected at the time of purchase.

This bill would exempt from these requirements government entities that only purchase diesel fuel from vendors that have paid or collected the diesel tax at the time of, or prior to, the sale of the diesel fuel to that government entity. This bill would also make a technical clarifying change to the Diesel Fuel Tax Law.

(5) The Sales and Use Tax Law, the Vehicle Fuel License Tax Law, the Use Fuel Tax Law, the Cigarette and Tobacco Products Tax Law, the Alcoholic Beverage Tax Law, the Energy Resources Surcharge Law, the Emergency Telephone Users Surcharge Act, the Hazardous Substances Tax Law, the Integrated Waste Management Fee Law, the Oil Spill Response, Prevention, and Administration Fees Law, the Underground Storage Tank Maintenance Fee Law, the Fee Collection Procedures Law, and the Diesel Fuel Tax Law provide that any person whose estimated tax or fee liability under those laws averages less than \$20,000 per month may elect to remit amounts due by electronic funds transfer. The election is required to be operative for a minimum of one year.

This bill would delete the requirement that the election be operative for a minimum of one year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16302.1 of the Government Code is
2 amended to read:

3 16302.1. Whenever any person pays to any state agency
4 pursuant to law an amount covering taxes, penalties, interest,
5 license or other fees, or any other payment, and it is subsequently
6 determined by the state agency responsible for the collection
7 thereof that this amount includes an overpayment of twenty
8 dollars (\$20) or less of the amount due the state pursuant to the
9 assessment, levy, or charge to which the payment is applicable,
10 the amount of the overpayment may be disposed of in either of
11 the following ways:

12 (a) The state agency responsible for the collection to which the
13 overpayment relates may apply the amount of the overpayment
14 as a payment by the person on any other taxes, penalties, interest,
15 license or other fees, or any other amount due the state from that
16 person if the state agency is responsible by law for the collection
17 to which the overpayment is to be applied as a payment.

18 (b) Upon written request of the state agency responsible for
19 the collection to which the overpayment relates, the amount of
20 the overpayment shall, on order of the Controller, be deposited as
21 revenue in the fund in the State Treasury into which the
22 collection, exclusive of overpayments, is required by law to be
23 deposited.

24 The State Board of Control may adopt rules and regulations to
25 permit state agencies to retain these overpayments where a
26 demand for refund permitted by law is not made within six
27 months after the refund becomes due, and the retained
28 overpayments shall belong to the state.

29 Except as provided in the foregoing paragraph, this section
30 shall not affect the right of any person making overpayment of
31 any amount to the state to make a claim for refund of the
32 overpayment, nor the authority of any state agency or official to

1 make payment of any amount so claimed, if otherwise authorized
2 by law.

3 SEC. 2. Section 6479.3 of the Revenue and Taxation Code is
4 amended to read:

5 6479.3. (a) Any person whose estimated tax liability under
6 this part averages twenty thousand dollars (\$20,000) or more per
7 month, as determined by the board pursuant to methods of
8 calculation prescribed by the board, shall remit amounts due by
9 an electronic funds transfer under procedures prescribed by the
10 board. Any person who collects use tax on a voluntary basis is
11 not required to remit amounts due by electronic funds transfer.

12 (b) Any person whose estimated tax liability under this part
13 averages less than twenty thousand dollars (\$20,000) per month
14 or any person who voluntarily collects use tax may elect to remit
15 amounts due by electronic funds transfer with the approval of the
16 board.

17 (c) Any person remitting amounts due pursuant to subdivision
18 (a) or (b) shall perform electronic funds transfer in compliance
19 with the due dates set forth in Article 1 (commencing with
20 Section 6451) and Article 1.1 (commencing with Section 6470).
21 Payment is deemed complete on the date the electronic funds
22 transfer is initiated, if settlement to the state's demand account
23 occurs on or before the banking day following the date the
24 transfer is initiated. If settlement to the state's demand account
25 does not occur on or before the banking day following the date
26 the transfer is initiated, payment is deemed to occur on the date
27 settlement occurs.

28 (d) Any person remitting taxes by electronic funds transfer
29 shall, on or before the due date of the remittance, file a return for
30 the preceding reporting period in the form and manner prescribed
31 by the board. Any person who fails to timely file the required
32 return shall pay a penalty of 10 percent of the amount of taxes,
33 exclusive of prepayments, with respect to the period for which
34 the return is required.

35 (e) (1) Except as provided in paragraph (2), any person
36 required to remit taxes pursuant to this article who remits those
37 taxes by means other than appropriate electronic funds transfer
38 shall pay a penalty of 10 percent of the taxes incorrectly remitted.

39 (2) A person required to remit prepayments pursuant to this
40 article who remits a prepayment by means other than an

1 appropriate electronic funds transfer shall pay a penalty of 6
2 percent of the prepayment amount incorrectly remitted.

3 (f) Except as provided in Sections 6476 and 6477, any person
4 who fails to pay any tax to the state or any amount of tax
5 required to be collected and paid to the state, except amounts of
6 determinations made by the board under Article 2 (commencing
7 with Section 6481) or Article 3 (commencing with Section
8 6511), within the time required shall pay a penalty of 10 percent
9 of the tax or amount of tax, in addition to the tax or amount of
10 tax, plus interest at the modified adjusted rate per month, or
11 fraction thereof, established pursuant to Section 6591.5, from the
12 date on which the tax or the amount of tax required to be
13 collected became due and payable to the state until the date of
14 payment.

15 (g) In determining whether a person's estimated tax liability
16 averages twenty thousand dollars (\$20,000) or more per month,
17 the board may consider tax returns filed pursuant to this part and
18 any other information in the board's possession.

19 (h) Except as provided in subdivision (i), the penalties
20 imposed by subdivisions (d), (e), and (f) shall be limited to a
21 maximum of 10 percent of the taxes due, exclusive of
22 prepayments, for any one return. Any person remitting taxes by
23 electronic funds transfer shall be subject to the penalties under
24 this section and not Section 6591.

25 (i) The penalties imposed with respect to paragraph (2) of
26 subdivision (e) and Sections 6476 and 6477 shall be limited to a
27 maximum of 6 percent of the prepayment amount.

28 (j) The board shall promulgate regulations pursuant to Chapter
29 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
30 Title 2 of the Government Code for purposes of implementing
31 this section.

32 SEC. 3. Section 7659.9 of the Revenue and Taxation Code is
33 amended to read:

34 7659.9. (a) Any person whose estimated tax liability under
35 this part averages twenty thousand dollars (\$20,000) or more per
36 month, as determined by the board pursuant to methods of
37 calculation prescribed by the board, shall remit amounts due by
38 an electronic funds transfer under procedures prescribed by the
39 board.

1 (b) Any person whose estimated tax liability under this part
2 averages less than twenty thousand dollars (\$20,000) per month
3 may elect to remit amounts due by electronic funds transfer with
4 the approval of the board.

5 (c) Any person remitting amounts due pursuant to subdivision
6 (a) or (b) shall perform an electronic funds transfer in compliance
7 with the due dates set forth in Article 1 (commencing with
8 Section 7651) and Article 1.1 (commencing with Section 7659).
9 Payment is deemed complete on the date the electronic funds
10 transfer is initiated, if settlement to the state's demand account
11 occurs on or before the banking day following the date the
12 transfer is initiated. If settlement to the state's demand account
13 does not occur on or before the banking day following the date
14 the transfer is initiated, payment is deemed to occur on the date
15 settlement occurs.

16 (d) Any person remitting taxes by electronic funds transfer
17 shall, on or before the due date of the remittance, file a return for
18 the preceding reporting period in the form and manner prescribed
19 by the board. Any person who fails to timely file the required
20 return shall pay a penalty of 10 percent of the amount of taxes,
21 exclusive of prepayments, with respect to the period for which
22 the return is required.

23 (e) (1) Except as provided in paragraph (2), any person
24 required to remit taxes pursuant to this article who remits those
25 taxes by means other than appropriate electronic funds transfer
26 shall pay a penalty of 10 percent of the taxes incorrectly remitted.

27 (2) A person required to remit prepayments pursuant to this
28 article who remits a prepayment by means other than an
29 appropriate electronic funds transfer shall pay a penalty of 6
30 percent of the prepayment incorrectly remitted.

31 (f) Except as provided by Sections 7659.5 and 7659.6, any
32 person who fails to pay any tax to the state or any amount of tax
33 required to be paid to the state, except amounts of determinations
34 made by the board under Article 2 (commencing with Section
35 7660) or Article 2.5 (commencing with Section 7670), within the
36 time required shall pay a penalty of 10 percent of the tax or
37 amount of tax, in addition to the tax or amount of tax, plus
38 interest at the modified adjusted rate per month, or fraction
39 thereof, established pursuant to Section 6591.5, from the date on

1 which the tax or the amount of tax required to be paid became
2 due and payable to the state until the date of payment.

3 (g) In determining whether a person's estimated tax liability
4 averages twenty thousand dollars (\$20,000) or more per month,
5 the board may consider tax returns filed pursuant to this part and
6 any other information in the board's possession.

7 (h) Except as provided in subdivision (i), the penalties
8 imposed by subdivisions (d), (e), and (f) shall be limited to a
9 maximum of 10 percent of the taxes due, exclusive of
10 prepayments, for any one return. Any person remitting taxes by
11 electronic funds transfer shall be subject to the penalties under
12 this section and not Section 7655.

13 (i) The penalties imposed with respect to paragraph (2) of
14 subdivision (e) and Sections 7659.5 and 7659.6 shall be limited
15 to a maximum of 6 percent of the prepayment amount.

16 (j) The board shall promulgate regulations pursuant to Chapter
17 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
18 Title 2 of the Government Code for purposes of implementing
19 this section.

20 SEC. 4. Section 8760 of the Revenue and Taxation Code is
21 amended to read:

22 8760. (a) Any person whose estimated tax liability under this
23 part averages twenty thousand dollars (\$20,000) or more per
24 month, as determined by the board pursuant to methods of
25 calculation prescribed by the board, shall remit amounts due by
26 an electronic funds transfer under procedures prescribed by the
27 board.

28 (b) Any person whose estimated tax liability under this part
29 averages less than twenty thousand dollars (\$20,000) per month
30 may elect to remit amounts due by electronic funds transfer with
31 the approval of the board.

32 (c) Any person remitting amounts due pursuant to subdivision
33 (a) or (b) shall perform electronic funds transfer in compliance
34 with the due dates set forth in Article 1 (commencing with
35 Section 8751). Payment is deemed complete on the date the
36 electronic funds transfer is initiated, if settlement to the state's
37 demand account occurs on or before the banking day following
38 the date the transfer is initiated. If settlement to the state's
39 demand account does not occur on or before the banking day

1 following the date the transfer is initiated, payment is deemed to
2 occur on the date settlement occurs.

3 (d) Any person remitting taxes by electronic funds transfer
4 shall, on or before the due date of the remittance, file a return for
5 the preceding reporting period in the form and manner prescribed
6 by the board. Any person who fails to timely file the required
7 return shall pay a penalty of 10 percent of the amount of taxes
8 with respect to the period for which the return is required.

9 (e) Any person required to remit taxes pursuant to this article
10 who remits those taxes by means other than appropriate
11 electronic funds transfer shall pay a penalty of 10 percent of the
12 taxes incorrectly remitted.

13 (f) Any person who fails to pay any tax to the state or any
14 amount of tax required to be collected and paid to the state,
15 except amounts of determinations made by the board under
16 Article 2 (commencing with Section 8776) or Article 3
17 (commencing with Section 8801), within the time required shall
18 pay a penalty of 10 percent of the tax or amount of tax, in
19 addition to the tax or amount of tax, plus interest at the modified
20 adjusted rate per month, or fraction thereof, established pursuant
21 to Section 6591.5, from the date on which the tax became due
22 and payable to the state until the date of payment.

23 (g) In determining whether a person's estimated tax liability
24 averages twenty thousand dollars (\$20,000) or more per month,
25 the board may consider tax returns filed pursuant to this part and
26 any other information in the board's possession.

27 (h) The penalties imposed by subdivisions (d), (e), and (f)
28 shall be limited to a maximum of 10 percent of the taxes due for
29 any one return. Any person remitting taxes by electronic funds
30 transfer shall be subject to the penalties under this section and not
31 Section 8876.

32 (i) The board shall promulgate regulations pursuant to Chapter
33 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
34 Title 2 of the Government Code for purposes of implementing
35 this section.

36 SEC. 5. Section 9405 of the Revenue and Taxation Code is
37 amended to read:

38 9405. This chapter shall be administered in conjunction with
39 the IFTA, the Use Fuel Tax Law (Part 3 (commencing with
40 Section 8601)), and the Diesel Fuel Tax Law (Part 31

(commencing with Section 60001)). Whenever the Use Fuel Tax Law or the Diesel Fuel Tax Law is inconsistent with the IFTA or this chapter, the IFTA or this chapter shall prevail except where prohibited by the California Constitution or United States Constitution.

SEC. 6. Section 9407 of the Revenue and Taxation Code is amended to read:

9407. (a) The IFTA, for the purposes of this chapter, may be used to:

(1) Determine the base state jurisdiction for motor carriers engaged in interstate commerce.

(2) Impose recordkeeping requirements.

(3) Specify audit procedures.

(4) Establish procedures for the exchange of information.

(5) Identify interstate motor carriers.

(6) Define motor vehicles and fuels subject to the provisions of the agreement.

(7) Determine bond requirements.

(8) Specify reporting requirements, due dates of returns, interest and penalty rates, and provisions for failure to file returns.

(9) Specify methods for collection of taxes, interest, and penalties.

(10) Determine methods for the distribution of taxes and interest collected or assessed to the appropriate jurisdictions.

(11) Deny, suspend, or cancel benefits under the agreement to any interstate motor carrier who violates the provisions of the agreement.

(b) The board may adopt regulations to administer the provisions of this chapter.

SEC. 7. Section 9411 of the Revenue and Taxation Code is amended to read:

9411. "IFTA" means the International Fuel Tax Agreement. ~~The IFTA~~ *International Fuel Tax Agreement* consists of the Articles of Agreement, the Procedures Manual, the Audit Manual, ~~and any board approved amendments to the manuals as amended from time to time.~~

SEC. 8. Section 9420 of the Revenue and Taxation Code is amended to read:

1 9420. Except for trip permits as provided in Sections 8708
2 and 60122, all interstate users who choose to obtain an IFTA
3 license from the board shall apply for a license and secure decals
4 for their vehicles. Application for the license and decals shall be
5 made annually on forms prescribed by the board. The application
6 shall be under oath and shall contain that information as the
7 board deems necessary. Upon receipt of the application, and
8 upon payment of any required reinstatement fee, the board may
9 issue to the applicant a license and decals.

10 The decals issued to the interstate user shall be placed on both
11 exterior sides of the vehicle cab. Failure to display the decals in
12 the required location may subject the interstate user to the
13 purchase of a trip permit. The transfer of decals from one
14 interstate user to another interstate user is prohibited. All decals
15 shall remain the property of the state and may be recalled for any
16 violation of the provisions of the IFTA.

17 A fee to be determined by the board shall be charged for the
18 annual license and a set of two decals issued prior to and during
19 the calendar year that the license and decal is valid. The board
20 may also prescribe procedures and set a fee for the issuance of a
21 30-day IFTA temporary license or replacement decals.

22 SEC. 9. Section 9432 of the Revenue and Taxation Code is
23 amended to read:

24 9432. The board shall transmit all moneys received by it
25 under this chapter to the Treasurer to be deposited in the State
26 Treasury. The board in accordance with the Treasurer shall set up
27 a reserve account in the State Treasury to disburse those moneys
28 as needed. After distribution payments to other jurisdictions and
29 refunds authorized by the IFTA, the balance remaining in the
30 reserve account shall be transferred, except as provided in
31 Section 9433, to the Motor Vehicle Fuel Account in the
32 Transportation Tax Fund.

33 SEC. 10. Section 30180 of the Revenue and Taxation Code is
34 amended to read:

35 30180. Articles 2 (commencing with Section 30201), 3
36 (commencing with Section 30221), and 4 (commencing with
37 Section 30241) of Chapter 4 and Sections 30185, 30362, and
38 30366 do not apply to amounts due or paid with respect to
39 purchases made of stamps or meter register settings. The
40 remedies of the state provided in Chapter 5 (commencing with

1 Section 30301) and the provisions of Chapter 6 (commencing
2 with Section 30361), except for Sections 30362 and 30366, apply
3 to amounts due or paid with respect to purchases made of stamps
4 or meter register settings.

5 SEC. 11. Section 30190 of the Revenue and Taxation Code is
6 amended to read:

7 30190. (a) Any person whose estimated tax liability under
8 this part averages twenty thousand dollars (\$20,000) or more per
9 month, as determined by the board pursuant to methods of
10 calculation prescribed by the board, shall remit amounts due by
11 an electronic funds transfer under procedures prescribed by the
12 board.

13 (b) Any person whose estimated tax liability under this part
14 averages less than twenty thousand dollars (\$20,000) per month
15 may elect to remit amounts due by electronic funds transfer with
16 the approval of the board.

17 (c) Any person remitting amounts due pursuant to subdivision
18 (a) or (b) shall perform electronic funds transfer in compliance
19 with the due dates set forth in Article 1 (commencing with
20 Section 30181). Payment is deemed complete on the date the
21 electronic funds transfer is initiated, if settlement to the state's
22 demand account occurs on or before the banking day following
23 the date the transfer is initiated. If settlement to the state's
24 demand account does not occur on or before the banking day
25 following the date the transfer is initiated, payment is deemed to
26 occur on the date settlement occurs.

27 (d) Any person remitting taxes by electronic funds transfer
28 shall, on or before the due date of the remittance, file a return for
29 the preceding reporting period in the form and manner prescribed
30 by the board. Any person who fails to timely file the required
31 return shall pay a penalty of 10 percent of the amount of taxes
32 with respect to the period for which the return is required.

33 (e) Any person required to remit taxes pursuant to this article
34 who remits those taxes by means other than appropriate
35 electronic funds transfer shall pay a penalty of 10 percent of the
36 taxes incorrectly remitted.

37 (f) Any person who fails to pay any tax to the state or any
38 amount of tax required to be collected and paid to the state,
39 except amounts of determinations made by the board under
40 Article 3 (commencing with Section 30173) or Article 2

(commencing with Section 30201) or Article 3 (commencing with Section 30221), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 30281.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

SEC. 12. Section 30283 of the Revenue and Taxation Code is amended to read:

30283. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 30171, 30185, 30190, 30223, and 30281.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 13. Section 32260 of the Revenue and Taxation Code is amended to read:

32260. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month

1 may elect to remit amounts due by electronic funds transfer with
2 the approval of the board.

3 (c) Any person remitting amounts due pursuant to subdivision
4 (a) or (b) shall perform electronic funds transfer in compliance
5 with the due dates set forth in Article 1 (commencing with
6 Section 32251). Payment is deemed complete on the date the
7 electronic funds transfer is initiated if settlement to the state's
8 demand account occurs on or before the banking day following
9 the date the transfer is initiated. If settlement to the state's
10 demand account does not occur on or before the banking day
11 following the date the transfer is initiated, payment is deemed to
12 occur on the date settlement occurs.

13 (d) Any person remitting taxes by electronic funds transfer
14 shall, on or before the due date of the remittance, file a return for
15 the preceding reporting period in the form and manner prescribed
16 by the board. Any person who fails to timely file the required
17 return shall pay a penalty of 10 percent of the amount of taxes,
18 with respect to the period for which the return is required.

19 (e) Any person required to remit taxes pursuant to this article
20 who remits those taxes by means other than appropriate
21 electronic funds transfer shall pay a penalty of 10 percent of the
22 taxes incorrectly remitted.

23 (f) Any person who fails to pay any tax to the state or any
24 amount of tax required to be collected and paid to the state,
25 except amounts of determinations made by the board under
26 Article 2 (commencing with Section 32271) or Article 3
27 (commencing with Section 32291), within the time required shall
28 pay a penalty of 10 percent of the tax or amount of tax, in
29 addition to the tax or amount of tax, plus interest at the modified
30 adjusted rate per month, or fraction thereof, established pursuant
31 to Section 6591.5, from the date on which the tax became due
32 and payable to the state until the date of payment.

33 (g) In determining whether a person's estimated tax liability
34 averages twenty thousand dollars (\$20,000) or more per month,
35 the board may consider tax returns filed pursuant to this part and
36 any other information in the board's possession.

37 (h) The penalties imposed by subdivisions (d), (e), and (f)
38 shall be limited to a maximum of 10 percent of the taxes due for
39 any one return. Any person remitting taxes by electronic funds

1 transfer shall be subject to the penalties under this section and not
2 Section 32252.

3 (i) The board shall promulgate regulations pursuant to Chapter
4 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
5 Title 2 of the Government Code for purposes of implementing
6 this section.

7 SEC. 14. Section 40067 of the Revenue and Taxation Code is
8 amended to read:

9 40067. (a) Any person whose estimated surcharge liability
10 under this part averages twenty thousand dollars (\$20,000) or
11 more per month, as determined by the board pursuant to methods
12 of calculation prescribed by the board, shall remit amounts due
13 by an electronic funds transfer under procedures prescribed by
14 the board.

15 (b) Any person whose estimated surcharge liability under this
16 part averages less than twenty thousand dollars (\$20,000) per
17 month may elect to remit amounts due by electronic funds
18 transfer with the approval of the board.

19 (c) Any person remitting amounts due pursuant to subdivision
20 (a) or (b) shall perform electronic funds transfer in compliance
21 with the due dates set forth in Article 1 (commencing with
22 Section 40051) and Article 2 (commencing with Section 40061).
23 Payment is deemed complete on the date the electronic funds
24 transfer is initiated if settlement to the state's demand account
25 occurs on or before the banking day following the date the
26 transfer is initiated. If settlement to the state's demand account
27 does not occur on or before the banking day following the date
28 the transfer is initiated, payment is deemed to occur on the date
29 settlement occurs.

30 (d) Any person remitting surcharges by electronic funds
31 transfer shall, on or before the due date of the remittance, file a
32 return for the preceding reporting period in the form and manner
33 prescribed by the board. Any person who fails to timely file the
34 required return shall pay a penalty of 10 percent of the amount of
35 the surcharge with respect to the period for which the return is
36 required.

37 (e) Any person required to remit surcharges pursuant to this
38 article who remits those surcharges by means other than
39 appropriate electronic funds transfer shall pay a penalty of 10
40 percent of the surcharges incorrectly remitted.

1 (f) Any person who fails to pay any surcharge to the state or
2 any amount of surcharge required to be collected and paid to the
3 state, except amounts of determinations made by the board under
4 Article 3 (commencing with Section 40071) or Article 4
5 (commencing with Section 40081), within the time required shall
6 pay a penalty of 10 percent of the surcharge or amount of
7 surcharge, in addition to the surcharge or amount of surcharge,
8 plus interest at the modified adjusted rate per month, or fraction
9 thereof, established pursuant to Section 6591.5, from the date on
10 which the surcharge or the amount of surcharge required to be
11 collected became due and payable to the state until the date of
12 payment.

13 (g) In determining whether a person's estimated surcharge
14 liability averages twenty thousand dollars (\$20,000) or more per
15 month, the board may consider returns filed pursuant to this part
16 and any other information in the board's possession.

17 (h) The penalties imposed by subdivisions (d), (e), and (f)
18 shall be limited to a maximum of 10 percent of the surcharge due
19 for any one return. Any person remitting surcharges by electronic
20 funds transfer shall be subject to the penalties under this section
21 and not Section 40101.

22 (i) The board shall promulgate regulations pursuant to Chapter
23 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
24 Title 2 of the Government Code for purposes of implementing
25 this section.

26 SEC. 15. Section 41060 of the Revenue and Taxation Code is
27 amended to read:

28 41060. (a) Any person whose estimated surcharge liability
29 under this part averages twenty thousand dollars (\$20,000) or
30 more per month, as determined by the board pursuant to methods
31 of calculation prescribed by the board, shall remit amounts due
32 by an electronic funds transfer under procedures prescribed by
33 the board.

34 (b) Any person whose estimated surcharge liability under this
35 part averages less than twenty thousand dollars (\$20,000) per
36 month may elect to remit amounts due by electronic funds
37 transfer with the approval of the board.

38 (c) Any person remitting amounts due pursuant to subdivision
39 (a) or (b) shall perform electronic funds transfer in compliance
40 with the due dates set forth in Article 1 (commencing with

1 Section 41050). Payment is deemed complete on the date the
2 electronic funds transfer is initiated if settlement to the state's
3 demand account occurs on or before the banking day following
4 the date the transfer is initiated. If settlement to the state's
5 demand account does not occur on or before the banking day
6 following the date the transfer is initiated, payment is deemed to
7 occur on the date settlement occurs.

8 (d) Any person remitting surcharges by electronic funds
9 transfer shall, on or before the due date of the remittance, file a
10 return for the preceding reporting period in the form and manner
11 prescribed by the board. Any person who fails to timely file the
12 required return shall pay a penalty of 10 percent of the amount of
13 the surcharges with respect to the period for which the return is
14 required.

15 (e) Any person required to remit surcharges pursuant to this
16 article who remits those surcharges by means other than
17 appropriate electronic funds transfer shall pay a penalty of 10
18 percent of the surcharges incorrectly remitted.

19 (f) Any person who fails to pay any surcharge to the state or
20 any amount of surcharge required to be collected and paid to the
21 state, except amounts of determinations made by the board under
22 Article 3 (commencing with Section 41070) or Article 4
23 (commencing with Section 41080), within the time required shall
24 pay a penalty of 10 percent of the surcharge or amount of
25 surcharge, in addition to the surcharge or amount of surcharge,
26 plus interest at the modified adjusted rate per month, or fraction
27 thereof, established pursuant to Section 6591.5, from the date on
28 which the surcharge or the amount of surcharge required to be
29 collected became due and payable to the state until the date of
30 payment.

31 (g) In determining whether a person's estimated surcharge
32 liability averages twenty thousand dollars (\$20,000) or more per
33 month, the board may consider returns filed pursuant to this part
34 and any other information in the board's possession.

35 (h) The penalties imposed by subdivisions (d), (e), and (f)
36 shall be limited to a maximum of 10 percent of the surcharges
37 due for any one return. Any person remitting surcharges by
38 electronic funds transfer shall be subject to the penalties under
39 this section and not Section 41095.

1 (i) The board shall promulgate regulations pursuant to Chapter
2 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
3 Title 2 of the Government Code for purposes of implementing
4 this section.

5 SEC. 16. Section 43170 of the Revenue and Taxation Code is
6 amended to read:

7 43170. (a) Any person whose estimated tax liability under
8 this part averages twenty thousand dollars (\$20,000) or more per
9 month, as determined by the board pursuant to methods of
10 calculation prescribed by the board, shall remit amounts due by
11 an electronic funds transfer under procedures prescribed by the
12 board.

13 (b) Any person whose estimated tax liability under this part
14 averages less than twenty thousand dollars (\$20,000) per month
15 may elect to remit amounts due by electronic funds transfer with
16 the approval of the board.

17 (c) Any person remitting amounts due pursuant to subdivision
18 (a) or (b) shall perform electronic funds transfer in compliance
19 with the due dates set forth in Article 1 (commencing with
20 Section 43151). Payment is deemed complete on the date the
21 electronic funds transfer is initiated if settlement to the state's
22 demand account occurs on or before the banking day following
23 the date the transfer is initiated. If settlement to the state's
24 demand account does not occur on or before the banking day
25 following the date the transfer is initiated, payment is deemed to
26 occur on the date settlement occurs.

27 (d) Any person remitting taxes by electronic funds transfer
28 shall, on or before the due date of the remittance, file a return for
29 the preceding reporting period in the form and manner prescribed
30 by the board. Any person who fails to timely file the required
31 return shall pay a penalty of 10 percent of the amount of taxes,
32 exclusive of prepayments, with respect to the period for which
33 the return is required.

34 (e) Any person required to remit taxes pursuant to this article
35 who remits those taxes by means other than appropriate
36 electronic funds transfer shall pay a penalty of 10 percent of the
37 taxes incorrectly remitted.

38 (f) Any person who fails to pay any tax to the state or any
39 amount of tax required to be collected and paid to the state,
40 except amounts of determinations made by the board under

Article 2 (commencing with Section 43201), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or amount of tax required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return or prepayment. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 43155.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

SEC. 17. Section 45160 of the Revenue and Taxation Code is amended to read:

45160. (a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 45151). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day

1 following the date the transfer is initiated, payment is deemed to
2 occur on the date settlement occurs.

3 (d) Any person remitting fees by electronic funds transfer
4 shall, on or before the due date of the remittance, file a return for
5 the preceding reporting period in the form and manner prescribed
6 by the board. Any person who fails to timely file the required
7 return shall pay a penalty of 10 percent of the amount of fees
8 with respect to the period for which the return is required.

9 (e) Any person required to remit fees pursuant to this article
10 who remits those fees by means other than appropriate electronic
11 funds transfer shall pay a penalty of 10 percent of the fees
12 incorrectly remitted.

13 (f) Any person who fails to pay any fee to the state or any
14 amount of fee required to be collected and paid to the state,
15 except amounts of determinations made by the board under
16 Article 2 (commencing with Section 45201), within the time
17 required shall pay a penalty of 10 percent of the fee or amount of
18 fee, in addition to the fee or amount of fee, plus interest at the
19 modified adjusted rate per month, or fraction thereof, established
20 pursuant to Section 6591.5, from the date on which the fee
21 became due and payable to the state until the date of payment.

22 (g) In determining whether a person's estimated fee liability
23 averages twenty thousand dollars (\$20,000) or more per month,
24 the board may consider returns filed pursuant to this part and any
25 other information in the board's possession.

26 (h) The penalties imposed by subdivisions (d), (e), and (f)
27 shall be limited to a maximum of 10 percent of the fees due for
28 any one return. Any person remitting fees by electronic funds
29 transfer shall be subject to the penalties under this section and not
30 Section 45153.

31 (i) The board shall promulgate regulations pursuant to Chapter
32 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
33 Title 2 of the Government Code for purposes of implementing
34 this section.

35 SEC. 18. Section 46160 of the Revenue and Taxation Code is
36 amended to read:

37 46160. (a) Any person whose estimated fee liability under
38 this part averages twenty thousand dollars (\$20,000) or more per
39 month, as determined by the board pursuant to methods of
40 calculation prescribed by the board, shall remit amounts due by

1 an electronic funds transfer under procedures prescribed by the
2 board.

3 (b) Any person whose estimated fee liability under this part
4 averages less than twenty thousand dollars (\$20,000) per month
5 may elect to remit amounts due by electronic funds transfer with
6 the approval of the board.

7 (c) Any person remitting amounts due pursuant to subdivision
8 (a) or (b) shall perform electronic funds transfer in compliance
9 with the due dates set forth in Article 1 (commencing with
10 Section 46151). Payment is deemed complete on the date the
11 electronic funds transfer is initiated if settlement to the state's
12 demand account occurs on or before the banking day following
13 the date the transfer is initiated. If settlement to the state's
14 demand account does not occur on or before the banking day
15 following the date the transfer is initiated, payment is deemed to
16 occur on the date settlement occurs.

17 (d) Any person remitting fees by electronic funds transfer
18 shall, on or before the due date of the remittance, file a return for
19 the preceding reporting period in the form and manner prescribed
20 by the board. Any person who fails to timely file the required
21 return shall pay a penalty of 10 percent of the amount of fees
22 with respect to the period for which the return is required.

23 (e) Any person required to remit fees pursuant to this article
24 who remits those fees by means other than appropriate electronic
25 funds transfer shall pay a penalty of 10 percent of the fees
26 incorrectly remitted.

27 (f) Any person who fails to pay any fee to the state or any
28 amount of fee required to be collected and paid to the state,
29 except amounts of determinations made by the board under
30 Article 2 (commencing with Section 46201) or Article 3,
31 (commencing with Section 46251), within the time required shall
32 pay a penalty of 10 percent of the fee or amount of fee, in
33 addition to the fee or amount of fee, plus interest at the modified
34 adjusted rate per month, or fraction thereof, established pursuant
35 to Section 6591.5, from the date on which the fee or the amount
36 of fee required to be collected became due and payable to the
37 state until the date of payment.

38 (g) In determining whether a person's estimated fee liability
39 averages twenty thousand dollars (\$20,000) or more per month,

1 the board may consider returns filed pursuant to this part and any
2 other information in the board's possession.

3 (h) The penalties imposed by subdivisions (d), (e), and (f)
4 shall be limited to a maximum of 10 percent of the fees due for
5 any one return. Any person remitting fees by electronic funds
6 transfer shall be subject to the penalties under this section and not
7 Section 46154.

8 (i) The board shall promulgate regulations pursuant to Chapter
9 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
10 Title 2 of the Government Code for purposes of implementing
11 this section.

12 SEC. 19. Section 50112.7 of the Revenue and Taxation Code
13 is amended to read:

14 50112.7. (a) Any person whose estimated fee liability under
15 this part averages twenty thousand dollars (\$20,000) or more per
16 month, as determined by the board pursuant to methods of
17 calculation prescribed by the board, shall remit amounts due by
18 an electronic funds transfer under procedures prescribed by the
19 board.

20 (b) Any person whose estimated fee liability under this part
21 averages less than twenty thousand dollars (\$20,000) per month
22 may elect to remit amounts due by electronic funds transfer with
23 the approval of the board.

24 (c) Any person remitting amounts due pursuant to subdivision
25 (a) or (b) shall perform electronic funds transfer in compliance
26 with the due dates set forth in Article 1 (commencing with
27 Section 50109). Payment is deemed complete on the date the
28 electronic funds transfer is initiated, if settlement to the state's
29 demand account occurs on or before the banking day following
30 the date the transfer is initiated. If settlement to the state's
31 demand account does not occur on or before the banking day
32 following the date the transfer is initiated, payment is deemed to
33 occur on the date settlement occurs.

34 (d) Any person remitting fees by electronic funds transfer
35 shall, on or before the due date of the remittance, file a return for
36 the preceding reporting period in the form and manner prescribed
37 by the board. Any person who fails to timely file the required
38 return shall pay a penalty of 10 percent of the amount of fees,
39 with respect to the period for which the return is required.

(e) Any person required to remit fees pursuant to this article who remits those fees by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the fees incorrectly remitted.

(f) Any person who fails to pay any fee to the state or any amount of fee required to be paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 50113) within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of fee required to be paid became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated fee liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the fees due for any one return. Any person remitting fees by electronic funds transfer shall be subject to the penalties under this section and not Section 50112.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

SEC. 20. Section 55050 of the Revenue and Taxation Code is amended to read:

55050. (a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board.

1 (c) Any person remitting amounts due pursuant to subdivision
2 (a) or (b) shall perform electronic funds transfer in compliance
3 with the due dates prescribed for the payment of the fee. Payment
4 is deemed complete on the date the electronic funds transfer is
5 initiated if settlement to the state's demand account occurs on or
6 before the banking day following the date the transfer is initiated.
7 If settlement to the state's demand account does not occur on or
8 before the banking day following the date the transfer is initiated,
9 payment is deemed to occur on the date settlement occurs.

10 (d) Any person remitting fees by electronic funds transfer
11 shall, on or before the due date of the remittance, file a return for
12 the preceding reporting period in the form and manner prescribed
13 by the board. Any person who fails to timely file the required
14 return shall pay a penalty of 10 percent of the amount of fees,
15 exclusive of prepayments, with respect to the period for which
16 the return is required.

17 (e) Any person required to remit fees pursuant to this article
18 who remits those fees by means other than appropriate electronic
19 funds transfer shall pay a penalty of 10 percent of the fees
20 incorrectly remitted.

21 (f) Any person who fails to pay any fee to the state or any
22 amount of fee required to be collected and paid to the state,
23 except amounts of determinations made by the board under
24 Article 2 (commencing with Section 55061) within the time
25 required shall pay a penalty of 10 percent of the fee or amount of
26 fee, in addition to the fee or amount of fee, plus interest at the
27 modified adjusted rate per month, or fraction thereof, established
28 pursuant to Section 6591.5, from the date on which the fee or the
29 amount of fee required to be collected became due and payable to
30 the state until the date of payment.

31 (g) In determining whether a person's estimated fee liability
32 averages twenty thousand dollars (\$20,000) or more per month,
33 the board may consider returns filed pursuant to this part and any
34 other information in the board's possession.

35 (h) The penalties imposed by subdivisions (d), (e), and (f)
36 shall be limited to a maximum of 10 percent of the fees due,
37 exclusive of prepayments, for any one return. Any person
38 remitting fees by electronic funds transfer shall be subject to the
39 penalties under this section and not Section 55042.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

SEC. 21. Section 60043 of the Revenue and Taxation Code is amended to read:

60043. (a) “Government entity” means this state and its political subdivisions except for a political subdivision that is only an exempt bus operator.

(b) Sections 60146 and 60205.5 do not apply to a government entity if both of the following apply:

(1) The diesel fuel is purchased tax-paid from a supplier or retail vendor.

(2) The tax-paid diesel fuel is used solely for the operation of a diesel-powered highway vehicle within this state.

SEC. 22. Section 60250 of the Revenue and Taxation Code is amended to read:

60250. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 60201). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state’s demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state’s demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed

1 by the board. Any person who fails to timely file the required
2 return shall pay a penalty of 10 percent of the amount of taxes
3 with respect to the period for which the return is required.

4 (e) Any person required to remit taxes pursuant to this article
5 who remits those taxes by means other than appropriate
6 electronic funds transfer shall pay a penalty of 10 percent of the
7 taxes incorrectly remitted.

8 (f) Any person who fails to pay any tax to the state or any
9 amount of tax required to be collected and paid to the state,
10 except amounts of determinations made by the board under
11 Article 2 (commencing with Section 60301) or Article 3
12 (commencing with Section 60310), within the time required shall
13 pay a penalty of 10 percent of the tax or amount of tax, in
14 addition to the tax or amount of tax, plus interest at the modified
15 adjusted rate per month, or fraction thereof, established pursuant
16 to Section 6591.5, from the date on which the tax became due
17 and payable to the state until the date of payment.

18 (g) In determining whether a person's estimated tax liability
19 averages twenty thousand dollars (\$20,000) or more per month,
20 the board may consider tax returns filed pursuant to this part and
21 any other information in the board's possession.

22 (h) The penalties imposed by subdivisions (d), (e), and (f)
23 shall be limited to a maximum of 10 percent of the taxes due for
24 any one return. Any person remitting taxes by electronic funds
25 transfer shall be subject to the penalties under this section and not
26 Section 60207.

27 (i) The board shall promulgate regulations pursuant to Chapter
28 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
29 Title 2 of the Government Code for purposes of implementing
30 this section.

31 SEC. 23. Section 60603 of the Revenue and Taxation Code is
32 amended to read:

33 60603. (a) Officers or employees of the state, upon
34 presenting appropriate credentials and a written notice to the
35 owner, operator, or agent in charge, are authorized to enter any
36 place and to conduct inspections in accordance with paragraphs
37 (1) to (6), inclusive.

38 (1) Inspections shall be performed in a reasonable manner and
39 at times that are reasonable under the circumstances, taking into

1 consideration the normal business hours of the place to be
2 entered.

3 (2) Inspections may be at any place at which taxable diesel
4 fuel is (or may be) produced or stored or at any inspection site
5 where evidence of activities involving evasion may be
6 discovered. These places may include, but are not limited to, any
7 terminal, any diesel fuel storage facility that is not a terminal, any
8 retail diesel fuel facility, or any designated inspection site.

9 (3) A designated inspection site is any state highway
10 inspection station, weigh station, agricultural inspection station,
11 mobile station, or other location designated by the state or the
12 Internal Revenue Service to be used as a diesel fuel inspection
13 site. A designated inspection site shall be identified as a diesel
14 fuel inspection site.

15 (4) Officers or employees may physically inspect, examine, or
16 otherwise search any tank, reservoir, or other container that can
17 or may be used for the production, storage, or transportation of
18 diesel fuel, diesel fuel dyes, or diesel fuel markers. Inspection
19 may also be made of any equipment used for, or in connection
20 with, production, storage, or transportation of diesel fuel, diesel
21 fuel dyes, or diesel fuel markers. This includes any equipment
22 used for the dyeing or marking of diesel fuel. This includes the
23 books and records kept to determine tax liability.

24 (5) Officers or employees may detain any vehicle, train, or
25 vessel for the purpose of inspecting its fuel tanks and storage
26 tanks. Detainment will be either on the premises under inspection
27 or at a designated inspection site. Detainment may continue for a
28 reasonable period of time as is necessary to determine the
29 amount and composition of the diesel fuel.

30 (6) Officers or employees may take and remove samples of
31 diesel fuel in reasonable quantities as necessary to determine its
32 composition.

33 (b) Any person that refuses to allow an inspection may be
34 fined one thousand dollars (\$1,000) for each refusal. This penalty
35 is in addition to any other penalty or tax that may be imposed
36 upon that person or any other person liable for tax or penalty.